IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9140 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DINESH DEVANAND CHAVDA

Versus

STATE OF GUJARAT

Appearance:

MS SUBHADRA G PATEL for Petitioner

V.B. GHARANIYA LD. AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 25/02/2000

ORAL JUDGEMENT

1. This special civil application is directed against the detention order dtd. 11th August, 1999 passed by the Police Commissioner, Rajkot City, whereby the petitioner was detained under the provisions of Gujarat Prevention of Anti-social Activities Act, 1985

(`PASA Act' for short), 1985. The petitioner is detained at Porbandar jail, since the date of order of detention.

2. No reply to the petition has been filed by any of the respondents. It has been submitted that his representation has been rejected and the detention order has already been confirmed by the Board.

3. I have heard learned counsel for both the sides. Having gone through the grounds of detention, I find that all that has been said is that there are two criminal cases registered against the petitioner under Prohibition Act in July, 1999 and August, 1999, respectively and he was engaged in antisocial activities and he is a bootlegger. Even if all the grounds as levelled against the petitioner are taken to be true, no case of breach of public order is made out. At the most it is a case of breach of law and order. The impugned detention order, therefore, cannot be sustained in the eye of law, as existence of threat to the public order is the pre-condition for detention order to be passed. It is also no ground to say that earlier also the petitioner had been detained for similar activities. It has been stated that earlier detention order against the petitioner had also been quashed by this Court. The impugned detention order dtd. 11th August, 1999, passed by the Police Commissioner, Rajkot City, is hereby quashed and set aside. It is directed that the petitioner-detenu namely Dinesh Devanand Chavda, detained in Porbandar Jail, shall be released forthwith, if not required under any other detention order or in any other criminal case. This Special Civil Application is allowed. Rule is made absolute.

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